

§ 245.418

Agreement, Occupancy Agreement, and Sale Document.

(c) In the case of a proposed conversion of residential rental units to condominium units, the materials specified in paragraphs (a)(1), (a)(4), and (a)(6) of this section and the following additional materials:

(1) An estimate of the demand for condominium housing, including an estimate of the number of present tenants interested in purchasing units;

(2) Estimates of downpayments, monthly mortgage payments and condominium association fees that will be required; and

(3) A list of the units to be converted and their occupancy.

(Approved by the Office of Management and Budget under control number 2502-0310)

§ 245.418 Initial submission of materials to HUD: Partial release of mortgage security.

In the case of a partial release of mortgage security, the mortgagor must submit the following materials to the local HUD office:

(a) A statement describing the portion of the property that is proposed to be released and the transaction requiring the release;

(b) A statement describing the estimated effect of the proposed release on the value of the project, the number of dwelling units in the project, the project income and expenses (including property taxes), the amount of subsidy available to the project, and the project rent schedule;

(c) A statement describing the proposed use of the property to be released and the persons who will have responsibility for the operation and maintenance of that property, and assessing the compatibility of that use with the residential character of the project;

(d) A statement describing the proposed use of any proceeds to be received by the mortgagor as a result of the release; and

(e) A copy of the notice to tenants.

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§ 245.419 Initial submission of materials to HUD: Major capital additions.

In the case of major capital additions, the mortgagor must submit the following materials to the local HUD office:

(a) The general plans and sketches of the proposed capital additions;

(b) A statement describing the estimated effect of the proposed capital additions on the value of the project, the project income and expenses (including property taxes), and the project rent schedule;

(c) A statement describing how the proposed capital additions will be financed and the effect, if any, of that financing on the tenants;

(d) A statement assessing the compatibility of the proposed capital additions with the residential character of the project; and

(e) A copy of the notice to tenants.

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§ 245.420 Rights of tenants to participate.

(a) The tenants (including any legal or other representatives acting for tenants individually or as a group) must have the right to inspect and copy the materials that the mortgagor is required to submit to HUD pursuant to § 245.415, for a period of 30 days from the date on which the notice required under § 245.410 is served on the tenants. During this period, the mortgagor must provide a place (as specified in the notice) reasonably convenient to tenants in the project where tenants and their representatives can inspect and copy these materials during normal business hours.

(b) The tenants have the right during this period to submit written comments on the proposed conversion to the mortgagor and to the local HUD office. Tenant representatives may assist tenants in preparing these comments.

(c) If the mortgagor, whether at HUD's request or otherwise, makes any material change during a tenant comment period in the materials submitted to HUD pursuant to § 245.415, the mortgagor must notify the tenants of the change, in the manner provided in § 245.15, and make the materials as

changed available for inspection and copying at the address specified in the notice for this purpose. The tenants have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed covered action, before the mortgagor may submit its request to HUD for approval of the covered action.

§ 245.425 Submission of request for approval to HUD.

Upon completion of the tenant comment period, the mortgagor must review the comments submitted by tenants and their representatives and prepare a written evaluation of the comments. The mortgagor must then submit the following materials to the local HUD office:

- (a) The mortgagor's written request for HUD approval of the covered action;
- (b) Copies of all written tenant comments;
- (c) The mortgagor's evaluation of the tenant comments on the proposed conversion or reduction;
- (d) A certification by the mortgagor that it has complied with all of the requirements of § 245.410, § 245.415, §§ 245.416 through 245.419, as applicable, § 245.420, and this section; and
- (e) Such additional materials as HUD may have specified in writing.

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§ 245.430 Decision on request for approval.

(a) After considering the mortgagor's request for approval and the materials submitted in connection with the request, HUD must notify the mortgagor in writing of its approval or disapproval of the proposed covered action, including, if applicable, its adjustment upward or downward of the proposed reduction in tenant-paid utilities. HUD must provide its reasons for its determination.

(b) The mortgagor must notify the tenants of HUD's decision in the manner provided in § 245.15. If HUD has ap-

proved the proposed covered action, the notice must state:

(1) The effective date of the covered action (which must be at least 30 days from the date of service of the notice and in accordance with the terms of existing leases);

(2) In the case of HUD's approval of a conversion from project-paid utilities to tenant-paid utilities or a reduction in tenant utility allowances, the amount of the rent to be paid to the mortgagor and the utility allowance for each unit; and

(3) In the case of HUD's approval of a conversion of residential units in a multifamily housing project to a non-residential use or the transfer of the project to a cooperative housing mortgagor corporation or association, which residential rental units are to be converted and whether the conversion is to nonresidential use or to cooperative or condominium units.

§ 245.435 Non-insured projects: Conversion from project-paid utilities to tenant-paid utilities or a reduction in tenant utility allowances.

(a) In the case of a proposed conversion from project-paid utilities to tenant-paid utilities or a reduction in tenant utility allowances involving a project that is assisted under section 236 of the National Housing Act (12 U.S.C. 1715z-1) or section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) but that does not have a mortgage insured by HUD or held by the Secretary, the provisions of this section and of §§ 245.405 through 245.425 apply to the mortgagor (project owner), except that—

(1) The notice to tenants required under § 245.410 must be modified to reflect the procedural changes made by this section;

(2) The materials (including tenant comments) required to be submitted to HUD under §§ 245.415 and 245.425 must be submitted to the State or local agency administering the Section 236 assistance or rent supplement assistance contracts, rather than to HUD; and

(3) The State or local agency must certify that the mortgagor has complied with the requirements of §§ 245.410, 245.415, 245.416, 245.420, and 245.425.